



Matthew M. Maclear
mcm@atalawgroup.com
415.568.5200

April 18, 2016

**NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.
(PROPOSITION 65)**

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

ATA Law Group represents the Center for Advanced Public Awareness, Inc. ("CAPA"), 180 Promenade Circle, Suite 300, Sacramento, CA 95834; CAPA is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, fostering and increasing the public awareness of chemicals used to manufacture consumer products, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

CAPA has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the product(s) identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with these products. Section 25249.6 of the statute provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to this listed chemical that results from contact with this product, California citizens lack the information necessary to make an informed decision on whether and/or how to eliminate (or reduce) their risk of exposure to the listed chemical from the reasonably foreseeable use of the product.

This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), CAPA intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

Certificate of Merit and General Information about Proposition 65. Pursuant to Title 11 C.C.R. § 3100, a certificate of merit is attached hereto. Pursuant to Title 27, C.C.R. §25903(b), a copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with this letter served to the alleged Violator identified below.

Alleged Violator. The name of the company covered by this notice that violated Proposition 65 (hereinafter the "Violator") is:

Jacki Design International, Inc., a California Corporation



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
April 18, 2016

Consumer Products and Listed Chemical. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

- **Jacki Design Tropicana PVC Tote Bag - Di(2-ethylhexyl) phthalate (“DEHP”)**
Approximate Dimension: 18.5"x12"x6"
Product Code AHL 141007 GW

On January 1, 1988, the State of California listed DEHP as a chemical known to the State to cause cancer. On October 24, 2003, the State of California listed Di(2-ethylhexyl) phthalate (DEHP) as a chemical known to cause developmental male reproductive toxicity. Both additions took place more than twenty (20) months before CAPA served this Notice.

Violations. The alleged Violators knowingly and intentionally have exposed and continue to knowingly and intentionally expose consumers within the State of California to Di(2-ethylhexyl) phthalate (DEHP) at levels that, upon reasonable use of the product, exceed the No Significant Risk Level and the Maximum Allowable Dose Level without providing clear and reasonable warning of this exposure. In particular, the product does not warn that it contains chemicals known to the State of California to cause both cancer and reproductive toxicity, developmental, male.

Route of Exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of the product. Consequently, a primary route of exposure to these chemicals is through dermal exposure. Consumers and other individuals, including women of childbearing age, are exposed to the listed chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the products. The potential exists for dermal exposure of DEHP through direct contact with the user's bare hands or other body parts when the tote bag is manipulated or contacted. Moreover, with children, mouthing of the product is a distinct possibility; and certainly some amount of exposure through ingestion can occur by touching the product with subsequent touching of the user's hand to mouth. By way of example, consumers and other individuals, including women of childbearing age, ingest the listed chemical when they, among other activities, touch the products and transfer the listed chemical from the products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the products stops. If the tote bag is stored in a closed drawer with other materials DEHP that leaches from tote bag may contaminate other articles that may be ingested. More likely, the product may be used to carry items and materials that commonly come into contact with the mouth. Examples include, but are not limited to, use of DEHP contaminated baby bottles and other beverage containers, and infant toys, that are placed in the mouth, and DEHP contaminated food products that are ingested, or DEHP contaminated napkins that are used to clean the user's mouth.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least April 18, 2013, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to this chemical.



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
April 18, 2016

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, CAPA is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 for products sold in the future or reformulate such products to eliminate further DEHP exposures. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time consuming litigation.

CAPA has retained ATA Law Group as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated herein.**

Very truly yours,

A handwritten signature in blue ink that reads "Matthew C. Maclear". The signature is written in a cursive style and is positioned above a horizontal line.

Matthew C. Maclear
AQUA TERRA AERIS LAW GROUP

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Jacki Design International, Inc.)
- Additional Supporting Information for Certificate of Merit (to AG only)



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
April 18, 2016

CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Jacki Design International, Inc.

I, Matthew Maclear, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violator will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

A handwritten signature in blue ink that reads "Matthew C. Maclear".

Dated: April 18, 2016

Matthew C. Maclear



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
April 18, 2016

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 107 Alpine Terrace, Oakland California 94618. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Oakland, California.

On April 18, 2016, I served the following documents: **NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Jacki Design International Inc.
335 W Chestnut Ave, Monrovia, CA 91016

Agent for Service of Process:
Jacki Design International Inc.
Jacqueline Hsiao
335 W Chestnut Ave
Monrovia Ca 91016

On April 18, 2016, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550

On April 18, 2016, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was **sent via electronic mail** to the party listed below:

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Gary Lieberstein, District Attorney
Napa County
931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Paul E. Zellerbach, District Attorney
Riverside County
3960 Orange Street
Riverside, CA 92501
Prop65@rivcoda.org



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
April 18, 2016

Dije Ndreu, Deputy District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Gregory Alker, Assistant District Attorney
San Francisco County
732 Brannan Street
San Francisco, CA 94103
gregory.alker@sfgov.org

Yen Dang, Supervising Deputy District Attorney
Santa Clara County
70 W Hedding St
San Jose, CA 95110
EPU@da.sccgov.org

Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Dr
Sonoma, CA 95403
jbarnes@sonoma-county.org

Anne Marie Schubert, District Attorney
Sacramento County
901 G Street
Sacramento, CA 95814
Prop65@sacda.org

Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

On April 18, 2016, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by US First Class Mail.

Executed on April 18, 2016, in Oakland California.

Anthony M. Barnes



Notice of Violation of California Health & Safety Code §25249.5 *et seq.*
April 18, 2016

Service List

| | | |
|---|---|--|
| District Attorney, Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612 | District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637 | District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101 |
| District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120 | District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903 | District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060 |
| District Attorney, Amador County 708 Court Street Jackson, CA 95642 | District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338 | District Attorney, Shasta County 1355 West Street Redding, CA 96001 |
| District Attorney, Butte County 25 County Center Drive, Suite 245 Orville, CA 95965 | District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482 | District Attorney, Sierra County PO Box 457 Downieville, CA 95936 |
| District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249 | District Attorney, Merced County 550 W. Main Street Merced, CA 95340 | District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097 |
| District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932 | District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020 | District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533 |
| District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531 | District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517 | District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354 |
| District Attorney, El Dorado County 515 Main Street Placerville, CA 95667 | District Attorney, Nevada County 201 Commercial Street Nevada City, CA 95959 | District Attorney, Sutter County 446 Second Street Yuba City, CA 95991 |
| District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721 | District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701 | District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080 |
| District Attorney, Glenn County Post Office Box 430 Willows, CA 95988 | District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678 | District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093 |
| District Attorney, Humboldt County 825 5th Street 4th Floor Eureka, CA 95501 | District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971 | District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370 |
| District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243 | District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023 | District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901 |
| District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514 | District Attorney, San Bernardino County 303 West 3 rd Street, 6 th Floor San Bernardino, CA 92415-0502 | Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012 |
| District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301 | District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101 | San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101 |
| District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230 | District Attorney, San Joaquin County 222 E. Weber Ave. Rm. 202 Stockton, CA 95202 | San Francisco, City Attorney City Hall, 234 1 Dr. Carlton B Goodlett PL San Francisco, CA 94102 |
| District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453 | District Attorney, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408 | San Jose City Attorney's Office 200 East Santa Clara Street, 16th Floor San Jose, CA 95113 |
| District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012 | District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063 | Sacramento City Attorney's Office 915 I Street, 4 th Floor Sacramento, CA 95814 |